

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Case No. 21-cr-11 (JRT/TNL)

Plaintiff,

v.

ORDER

Josbel Eliazar Araujo Castillo,

Defendant.

This matter comes before the Court on Defendant Josbel Eliazar Araujo Castillo's Motion to Extend Dates, ECF No. 39. Defendant has also filed a Statement of Facts in Support of Defendant's Motion for Extension of Time to File Motions, ECF No. 40. Defendant requests a two-month extension of time to file pretrial motions and all corresponding dates as he needs additional time to review discovery with counsel and, due to COVID-19, in-person visits at the facility where he is detained "have been curtailed." ECF No. 39 at 1; *accord* ECF No. 40 at 1. Additionally, all communication between Defendant and defense counsel must be conducted through an interpreter. ECF No. 39 at 1. The Government has no objection to the requested extension. ECF No. 39 at 1.

Beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹ On September

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at

3, 2021, Chief Judge Tunheim entered General Order No. 30, which allows limited in-person proceedings for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 30 (D. Minn. Sept. 3, 2021). General Order No. 30 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 30 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 30 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19.

The Court previously inquired whether Defendant consented to conducting a criminal motions hearing using videoconferencing. ECF No. 19. Defendant indicated through counsel that he consents to videoconferencing for the criminal motions hearing. ECF No. 20. Consistent with the health and safety protocols of this Court and the facility

<https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

² *See also* General Order No. 31, which went into effect on September 22, 2021, vacated General Order No. 29, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota." *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 31 (D. Minn. Sept. 16, 2021).

in which Defendant is detained, the criminal motions hearing will be held by videoconference and is continued to December 21, 2020.

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion to Extend Dates, ECF No. 39, is **GRANTED**.
2. The period of time from **September 29 through December 21, 2021**, shall be excluded from Speedy Trial Act computations in this case.
3. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **November 30, 2021**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.
4. Counsel shall electronically file a letter on or before **November 30, 2021**, if no motions will be filed and there is no need for hearing.
5. All responses to motions shall be filed by **December 14, 2021**. D. Minn. LR 12.1(c)(2).
6. Any Notice of Intent to Call Witnesses shall be filed by **December 14, 2021**. D. Minn. LR 12.1(c)(3)(A).
7. Any Responsive Notice of Intent to Call Witnesses shall be filed by **December 17, 2021**. D. Minn. LR 12.1(c)(3)(B).

8. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

9. **If required, the motions hearing shall take place before the undersigned on December 21, 2021, at 10:00 a.m., and will occur by Zoom videoconference technology.** D. Minn. LR 12.1(d). Log-in information will be provided closer to the hearing date.

10. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT, the following trial and trial-related dates are:**

All voir dire questions and jury instructions must be submitted to Chief District Judge John R. Tunheim on or before **January 24, 2022**.

This case must commence trial on **February 7, 2022, at 9:00 a.m.** before Chief Judge Tunheim in Courtroom 15, U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

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b. IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for Chief Judge Tunheim to confirm the new trial date.

Dated: October 1, 2021

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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